IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 14414 of 2004(N)
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PETITIONER:
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1. A.M.GEORGE,
AVIYOTTIE PUTHENPARACKAL HOUSE,
MULAVANA P.O.,KUNDRA,
KOLLAM DISTRICT.

2. A.ALEXANDER,
KUMBAKATTU HOUSE,
AMBALAKKARA P.O.,(VIA) VALAKAM,
KOLLAM DISTRICT.

BY ADV. SRI.V.C.JAMES
SRI.DIPU JAMES

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
KOLLAM.

2. THE STATE OF KERALA,
REP. BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 TRUE COPY OF G.O.PT.NO. 73804/FFP/B1 /96 GAD DATED 9.5.1997

EXT.P2 TRUE COPY OF G.O.PT.NO.5926/97/GAD THIRUVANANTHAPURAM DATED 13.8.97

EXT.P3 TRUE COPY OF FIRST PETITIONER'S PETITION DATED 20.11.1998 FILED BEFORE THE HON'BLE CHIEF MINISTER OF KERALA.

EXT.P4 TRUE COPY OF FIRST PETITIONER'S PETITION DATED 7.11.2001 FILED BEFORE THE HON'BLE CHIEF MINISTER OF KERALA.

EXT.P4(a) TRUE COPY OF FIRST PETITIONER'S APPLICATION DATED 7.11.2001 FILED BEFORE THE DISTRICT COLLECTOR, KOLLAM.

EXT.P5 TRUE COPY OF 2ND PETITIONER'S APPLICATION DATED 14.2.2002 BEFORE THE HON'BLE CHIEF MINISTER

EXT.P6 TRUE COPY OF 2ND PETITIONER'S APPLICATION DATED 14.3.2002 BEFORE THE DISTRICT COLLECTOR, KOLLAM.

EXT.P7 TRUE COPY OF RIN MUTINEER'S ASSOCIATION PETITION DATED 1.1.2002 FILED BEFORE THE HON'BLE CHIEF MINISTER OF KERALA.

EXT.P8 TRUE COPY OF RIN MUTINEER'S ASSOCIATION PETITION DATED 23.4.2002 FILED BEFORE THE DISTRICT COLLECTOR, KOLLAM ON BEHALF OF THE FIRST PETITIONER.

EXT.P9 TRUE COPY OF DO.DO. DATED 6.5.2002 FILED BEFORE THE DISTRICT COLLECTOR, KOLLAM.

EXT.P10 TRUE COPY OF DO.DO. DATED 30.9.2002 FILED BEFORE THE FIRST RESPONDENT.

EXT.P11TRUE COPY OF LETTER DATED 10.10.2002 FROM THE DISTRICT COLLECTOR, KOLLAM TO THE PRESIDENT OF THE RIN MUTINEER'S ASSOCIATION.

EXT.P12 TRUE COPY OF PETITION DATED 22.4.2002 FROM THE RIN MUTINEER'S ASSOCIATION BEFORE THE FIRST RESPONDENT ON BEHALF OF THE 2ND PETITIONER

EXT.P13 TRUE COPY OF PETITION DATED 6.5.2002 FROM DO. BEFORE THE DISTRICT COLLECTOR, KOLLAM ON BEHALF OF THE 2ND PETITIONER.

EXT.P14 TRUE COPY OF ORDER DATED 16.8.2003 OF THE GOVERNMENT OF KERALA, PASSED AGAINST THE FIRST PETITIONER.

EXT.P15 TRUE COPY OF APPEAL DATED 15.9.2003 OF THE FIRST PETITIONER BEFORE THE CHIEF MINISTER OF KERALA.

EXT.P16 TRUE COPY OF GOVERNMENT ORDER DATED 24.12.2003 PASSED AGAINST THE FIRST PETITIONER.

EXT.P17 TRUE COPY OF MEDICAL CERTIFICATE DATED 3.9.2002 ISSUED TO THE FIRST PETITIONER BY DR. SIVARAMAKRISHNAN, P.

EXT.P18 TRUE COPY OF GOVERNMENT ORDER DATED 23.8.2003 PASSED AGAINST THE 2ND PETITIONER.

EXT.P19 TRUE COPY OF PETITION DATED 23.9.2003 TO THE DISTRICT COLLECTOR, KOLLAM FROM THE 2ND PETITIONER.

EXT.P20 TRUE COPY OF GOVERNMENT ORDER DATED 12.11.2003 PASSED AGAINST THE 2ND PETITIONER.

EXT.P21 TRUE COPY OF PETITION DATED 29.11.2003 FROM THE 2ND PETITIONER TO THE PRINCIPAL SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

EXT.P22 TRUE COPY OF GOVERNMENT ORDER DATED 24.12.2003 PASSED AGAINST THE 2ND PETITIONER.

EXT.P23 TRUE COPY OF COMMUNICATION NO. 3955/FFFPB3/04/GAD DATED 9.6.2006 SENT BY THE FIRST RESPONDENT.

EXT.P24 TRUE COPY OF SANCTION ORDER NO. N2-32097/05 DATED 5.7.2005 OF THE DISTRICT COLLECTOR, KOLLAM.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

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W.P.C. NO. 14414 OF 2004

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Dated this the 30th day of March, 2007

JUDGMENT

Petitioners are challenging Exts.P14, P16, P18, P20 and P22 orders whereunder their applications for Kerala Freedom Fighters' Pension was rejected on account of delay in filing the applications. Petitioners were stated to be terminated from the Navy by the British on account of Royal Indian Naval Mutiny in 1946. According to the petitioners, those who were terminated or dismissed from service on account of participation in Mutiny were found eligible by the Government vide Ext.P1 order. Since similar others were given pension, petitioners are also entitled, is their case. Government Pleader on the other hand contended that Government as a last chance extended the time for submission of applications vide Ext.P2 order upto 31.12.1997. However, one of the petitioners has explained the reason for delay as on account of the fact that he was abroad along with his son, while the other has not given any acceptable reason and therefore their applications were rejected. Petitioners have however referred to the decision of the Supreme Court in MUKUND LAL BHANDARI V.

UNION OF INDIA, A.I.R. 1993 SC 2127 wherein the Supreme Court has taken a liberal approach and directed the Government to entertain applications for Freedom Fighters Pension submitted even belatedly. The Supreme Court also held that freedom fighters are entitled to pension from the date of their application, which in this case , was made by the first petitioner on 7.11.2001 and the second petitioner on 11.3.2002. In the circumstances and in view of the decision of the Supreme court referred to above, I set aside the impugned orders with direction to the first respondent to consider applications afresh in the light of the above decision of the Supreme Court within one month from the date of production of a copy of this judgment by the petitioners, along with a copy of judgment of the Supreme Court above referred. The first respondent should also consider Ext.P23 and P24 orders issued by the Government in similar cases. Petitioners will produce copy of the OP containing the annexures to enable the first respondent to decide the matter.

W.P. is allowed as above.

(C.N.RAMACHANDRAN NAIR)
Judge